

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF NORTH CAROLINA
Civil Action No. 1:13-cv-897**

**JAMES DILLON,
on Behalf of Himself and All Others
Similarly Situated,**

Plaintiff,

v.

**BMO HARRIS BANK, N.A., FOUR
OAKS BANK & TRUST CO., a North
Carolina Chartered Bank,
GENERATIONS FEDERAL CREDIT
UNION, and BAY CITIES BANK, a
Florida State-Chartered Bank,**

Defendants.

**JOINT MOTION TO EXTEND BRIEFING AND FOR ARBITRATION-
RELATED DISCOVERY**

Pursuant to Local Rule 7.3 and 9 U.S.C.A. §§ 3-4, Plaintiff James Dillon (“Plaintiff”) and Defendants BMO Harris Bank, N.A., Bay Cities Bank, and Generations Federal Credit Union (“Defendants”) jointly request an extension of the briefing schedule set forth in this Court’s Scheduling Order entered June 30, 2015 (Doc. 148) (the “Scheduling Order”) in order to engage in arbitration-related discovery as contemplated in paragraph 4 of the Scheduling Order and in accordance with the stipulated schedule herein. In support of this motion, the parties state:

1. Following a joint motion by the parties, this Court entered the Scheduling Order in connection with Defendants’¹ renewed motions to compel arbitration.

2. In accordance with the Scheduling Order, on July 15, 2015, Defendants filed their renewed arbitration motions (Docs. 149-156). Under the current schedule, Plaintiff’s oppositions to those motions would be due on August 14, 2015. But the Scheduling Order indicates that the deadlines have been set “without prejudice to any party seeking leave to take arbitration-related discovery and any extension of the briefing necessitated by the time necessary to conduct that discovery.” (Doc. 148, ¶ 4.)

3. After reviewing Defendants’ renewed motions, Plaintiff wishes to take discovery from Defendants and certain third parties in order to prepare oppositions to those renewed motions. In Plaintiff’s view, the anticipated discovery would allow him to challenge the formation and enforceability of the arbitration agreements at issue and Defendants’ right to invoke those agreements.

4. On July 27, 2015, counsel for the parties met and conferred by telephone regarding Plaintiff’s proposal to take arbitration-related discovery. The participants in the conference call were Darren Kaplan, Austin Moore, Jeffrey Kaliel, Jason Alperstein and Hill Allen for Plaintiff and Kevin Ranlett, Eric Pullen, Leslie Hyman, Michael Carey and Eric Rieder for Defendants.

5. Defendants do not agree that all of the topics of discovery are appropriate, but wish to meet and confer further with Plaintiff once Plaintiff has served concrete

¹ Defendant Four Oaks Bank & Trust Co. has not moved to compel arbitration in this litigation.

discovery requests. In addition, depending upon Plaintiff's objections to enforcement of the arbitration agreements, Defendants may wish to take discovery from Plaintiff.

6. The parties agree that the current briefing schedule would not permit them to complete discovery and obtain an orderly resolution of any disputed issues pertaining to discovery. Moreover, the parties anticipate that some of the third parties from whom Plaintiff anticipates seeking discovery may seek to quash any subpoenas.

7. The parties therefore propose the following amendment to the Scheduling Order (Doc. 148):

- a. Plaintiff must disclose to Defendants his objections to enforcement of the arbitration agreements no later than July 31, 2015;
- b. The parties will serve discovery requests on each other and on third parties no later than August 14, 2015;
- c. The parties will serve any objections to discovery requests no later than August 28, 2015;
- d. The parties will promptly meet and confer regarding any such objections. And if the parties cannot reach agreement, any motions to compel discovery or for a protective order will be filed no later than September 25, 2015;
- e. Absent further order of the Court, arbitration-related discovery will conclude 60 days after the later of: (1) October 27, 2015; or (2) the entry of

the order resolving any discovery motions filed by a party or any third party from whom a party seeks arbitration-related discovery;

f. Plaintiff's responses to the renewed arbitration motions shall be due 30 days after the close of arbitration-related discovery; and

g. Defendants' reply briefs in support of their renewed motions shall be due 21 days after Plaintiff files his oppositions.

WHEREFORE, for the above-stated reasons, the Parties respectfully request that this Court grant their motion to stay briefing on Defendants' renewed motions to compel arbitration pending the completion of arbitration-related discovery.

Dated: July 31, 2015

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***Attorneys for Defendant Generations
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CERTIFICATE OF SERVICE

I certify that on this 31st day of July, 2015, I electronically filed the foregoing paper with the Clerk of the Court using the ECF system, which will send notification of the filing to the attorneys on that system.

By: /s/ Darren T. Kaplan
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